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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 18th April 2007

No.3744-1i/1-(B)-52/2000/L.E. — In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award dated the 2nd February 2007 in I.D.Case No. 104/2000 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s. Orient Paper Mills, Bhubaneswar and its workman Shri Abhimanyu Behera was referred for adjudication is hereby published as in the schedule below:—

SCHEDULE

IN THE LABOUR COURT , BHUBANESWAR
INDUSTRIAL DISPUTE CASE No. 104 of 2000

Dated the 2nd February 2007

Present:

Shri S.K. Mohapatra, O.S.J.S. (Jr.Branch),
Presiding Officer,
Labour Court,
Bhubaneswar.

Between:

The Management of
M/s. Orient Paper Mills,
Bhubaneswar.

... First-Party —Management

And

Its Workman
Shri Abhimanyu Behera

... Second-Party—Workman

Appearances :

None

... For First-Party —Management

Shri Susanta Das, Advocate

... For Second-Party—Workman

AWARD

The Government of Orissa, Labour and Employment Department referred the present dispute between the Management of M/s. Orient Paper Mills, Bhubaneswar and its workman Shri Abhimanyu Behera under Notification No. 5383/LE., dated the 18th May 1998 vide Memo. No. 9699(5)/LE., dated the 17th July 2000 for adjudication by this Court.

2. The terms of reference by the State Government is as follows:

“ Whether the action of the Management of M/s. Orient Paper Mills, Bhoinagar, Unit-8, Bhubaneswar in terminating the services of Shri Abhimanyu Behera, Watchman with effect from 14th February 1999 by way of refusal of employment is legal or justified ? If not what relief Shri Behera is entitled to ?”

3. Shorn of all un-necessary details, the case of the workman in brief is as follows:

The workman namely Abhimanyu Behera was working as a daily wage labourer under the Management of its Resident Officer since 1984 on a daily wage of Rs. 25/-. The Management appointed the workman as Watchman vide office order dt. 2.9.1993 on a consolidated salary of Rs. 885/- per month with effect from 1st August 1993. The workman had approached the District Labour Officer, Khurda vide his petition dt. 23rd February 1999 about the non-payment of arrear wages, statutory bouns and minimum wages. But during joint enquiry the Management contended that the services of the workman has already been terminated. The Management had abruptly terminated the services of the workman without observing any formalities and without affording any opportunity of hearing and thereby violated the principles of natural justice. The workman had not been paid any notice pay or notice before his service was terminated by way of refusal of employment. On these averments, the workman approached the authorities of the Labour Deaprtment who started a conciliation proceeding which failed and thus the present reference to this Court.

4. The Management has been set *ex-parte* vide order dated the 26th March 2004.

5. The workman has examined himself as W.W.1 by filing affidavit evidence. In his affidavit the workman has contended that he was under the employment of the Management as Watchman on daily wage basis with effect from 1st November 1984 at its Bhubaneswar Office and after working as such for nine years, he submitted one representation on 14th August 1993 for regularisation of his service. The Management approved the regular appointment of the workman with effect from 1st August 1993 vide office order dt. 2nd September 1993 on a consolidated salary of Rs. 885/- per month alongwith other allowances. On 2nd February 1999 the workman requested the Management at Bhubaneswar for minimum wages, bonus and arrear differential minimum wages from the date of his regular appointment i.e. from 1st August 1993 but the Management threatened him that if he raised such demand any more his service would be terminated. On 14th February 1999 the Management asked the workman to go on leave for one week and when the workman returned from his leave on 22nd February 1999 to resume his duty, he was not allowed to resume his duty and was asked to proceed on further leave. Therefore, on 23rd February 1999 the workman submitted his grievance in writing to the District Labour Officer regarding non-payment of wages, bonus and arrear differential minimum wages with effect from 1st August 1993 and non-issuance of office order of appointment and that the Management when

come to know about the proceeding before the District Labour Officer, the workman was not allowed to resume his duty. Thus the service of the workman was terminated with effect from 14th February 1999 by way of refusal of employment. The workman has proved the xerox copy of the letter dt. 14th August 1993 addressed to the Vice-President of the Management as Ext.1 which is a prayer of the workman for regularisation of his service. Ext.2 is the xerox copy of the order dt. 2nd September 1993 under which the workman was appointed as Watchman with effect from 1st August 1993. Ext. 3 is the xerox copy of a communication regarding appointment of the workman as Watchman. Ext.4 is the xerox copy of an application of the workman under which he has made a prayer to the Management stating that when he learnt about the death of his younger brother, he proceeded on leave on 4th October 1994 to 19th October 1994 and thereafter due to his illness, he remained absent from his duty till 24th October 1994 and therefore, made prayer to the Management to allow him to resume his duty. Ext.5 is the xerox copy of another application of the workman to the Vice-President of the Management stating that due to his own illness he wanted leave from 30th November 1998 to 6th December 1998. Ext.6 is the xerox copy the representation of the workman regarding payment of differential minimum wages, bonus etc.

6. Since the Management has been set *ex-parte*, the evidence of the workman remains un-challenged. The affidavit evidence when read with the Exts.1 to 6 proved by the workman it proves that the workman was under the regular employment of the Management since 1993. There is no material on record to show that the workman had not worked for 240 days or more during the period of 12 months preceding the date of his termination i.e. 14th February 1999. All materials on records, it is obvious that the Management did not observe the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 while terminating the service of the workman and hence the termination of the service of the workman with effect from 14th February 1999 by way of refusal of employment is illegal and unjustified.

7. Hence ordered :

The termination of service of the workman with effect from 14th February 1999 by the Management by way of refusal of employment is illegal and unjustified and therefore, the workman is entitled to the relief of reinstatement in service. In the facts and circumstances of the case, there is no order as to any back wages.

The reference is answered accordingly.

Dictated and corrected by me.

S.K. Mohapatra
2-2-2007
Presiding Officer,
Labour Court,
Bhubaneswar.

S.K. Mohapatra
2-2-2007
Presiding Officer,
Labour Court,
Bhubaneswar.

By order of the Governor

N. C. RAY

Under-Secretary to Government